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No. 84-1586

In The
Supreme Court of the United States
October Term, 1984

EDWARD MALLEY AND
THE STATE OF RHODE ISLAND,

Petitioners,

vs.

JAMES R. BRIGGS AND
LOUISA BRIGGS,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED APRIL 5, 1985
CERTIORARI GRANTED MAY 28, 1985

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

September 18, 1981—Complaint filed.

November 25, 1981—Defendant Edward Malley's Answer filed.

February 1, 1984—Jury trial of action commenced.

February 2, 1984—Defendant State of Rhode Island's Motion to Dismiss granted; Defendant Malley's Motion to Dismiss granted.

February 28, 1984—Judgment entered for defendants Edward Malley and the State of Rhode Island.

March 8, 1984—Plaintiffs' Motion for New Trial or for Relief From Judgment filed.

March 19, 1984—Defendant's Objection to Plaintiffs' Motion for New Trial or for Relief from Judgment Filed.

May 15, 1984—Opinion and Order: Plaintiff's Motion for New Trial or for Relief from Judgment is denied.

May 23, 1984—Plaintiffs' Notice of Appeal filed.

November 19, 1984—Opinion and Judgment of the United States Court of Appeals for the First Circuit.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CA81 - 0577 P

JAMES R. BRIGGS and LOUISA BRIGGS

vs.

EDWARD MALLEY and the STATE
OF RHODE ISLAND

Plaintiffs hereby demand trial by jury

COMPLAINT

JURISDICTION

1. This action arises under the Fourth and Fourteenth Amendments to the Constitution of the United States and under 42 U.S.C. § 1983. Jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1343(3).

2. Jurisdiction over Counts III, IV, and V is vested in this Court by virtue of the doctrine of pendent jurisdiction.

PARTIES

1. Plaintiff James R. Briggs is a resident of the Town of Narragansett, State of Rhode Island.

2. Plaintiff Louisa B. Briggs is a resident of the Town of Narragansett, State of Rhode Island.

3. Defendant Edward Malley is a resident of the State of Rhode Island and is and was at all times mentioned herein a member of the Rhode Island State Police. He is sued individually and in his official capacity.

4. Defendant State of Rhode Island is a sovereign State of the United States of America and is susceptible to suit in this action under the provisions of R.I.G.L. § 9-1-31.

COUNT I

1. On or about February 25, 1981, defendant Edward Malley applied to the District Court of the State of Rhode Island for warrants for the arrest of plaintiffs James R. Briggs and Louisa Briggs, which warrants were issued on or about February 25, 1981.

2. These arrest warrants were constitutionally deficient in that the affidavits submitted in support of the application did not set forth sufficient facts to establish probable cause to believe that plaintiffs had committed the offense alleged in the warrant application or felony complaint.

3. Defendant Edward Malley knew, at the time he applied for the warrants for the arrest of plaintiffs, that the affidavits submitted in support of the application did not set forth sufficient facts to establish probable cause to believe that plaintiffs had committed the offense alleged in the warrant application or felony complaint.

4. The actions of defendant Edward Malley in applying for warrants for the arrest of plaintiffs, in spite of his knowledge of the legal insufficiencies of the affidavits, were taken maliciously, in bad faith, and in reckless disregard for the rights of plaintiffs.

5. As a direct and proximate result of the defendant Edward Malley's actions, plaintiffs were arrested on March 19, 1981, pursuant to the arrest warrant obtained

by defendant Malley, and charged with violations of R.I. G.L. § 21-28-4.08, all in violation of plaintiffs' rights under the Fourth and Fourteenth Amendments to the Constitution of the United States.

6. The criminal charges against plaintiffs stemming for [sic] their arrest on March 19, 1981, have been dismissed, the grand jury which considered the charges against plaintiffs having returned no true bill against plaintiffs.

7. As a direct and proximate result of the actions of Defendant Edward Malley, Plaintiffs James R. Briggs and Louisa B. Briggs were unlawfully arrested and imprisoned, suffered severe and permanent injuries to their bodies, nerves and nervous systems and were otherwise injured, were prevented from transacting their business, suffered a loss of wages, had their earning capacity impaired, had their reputation damaged, and suffered great pain of body and mind, humiliation and indignity.

WHEREFORE, Plaintiffs James R. Briggs and Louisa B. Briggs each demand judgment against Defendant Edward Malley for One Million Dollars ($1,000,000) as compensatory damages, plus interest, and One Million Dollars ($1,000,000) as punitive damages, plus costs and attorneys' fees as provided in 42 U.S.C. § 1988.

COUNT II

1. The allegations of Count I are incorporated here as if set forth in full.

2. The actions of defendant Edward Malley in procuring unlawful warrants for the arrests of Plaintiffs James R. Briggs and Louisa Briggs were the result of the

failure of Defendant State of Rhode Island and its police department, over a long period of time prior to February 25, 1981, to establish necessary and adequate training and instruction programs for police officers, and to promulgate and enforce guidelines and manuals concerning the application for arrest warrants.

3. The failures of Defendants State of Rhode Island and its police department as aforesaid were willful, wanton, and in reckless disregard of the rights of plaintiffs.

4. As a direct and proximate result of the actions and failures of Defendant State of Rhode Island, Plaintiffs James R. Briggs and Louisa B. Briggs were unlawfully arrested and imprisoned, suffered severe and permanent injuries to their bodies, nerves and nervous systems and were otherwise injured, were prevented from transacting their business, suffered a loss of wages, had their earning capacity impaired, had their reputation damaged, and suffered great pain of body and mind, humiliation and indignity.

WHEREFORE, Plaintiffs James R. Briggs and Louisa B. Briggs each demand judgment against Defendant State of Rhode Island for One Million Dollars ($1,000,000), plus costs and attorneys' fees as provided in 42 U.S.C. § 1988.

COUNT III

1. The allegations of Count I are incorporated here as if set forth in full.

2. On February 25, 1981, defendant Edward Malley instituted criminal charges against plaintiffs James R. Briggs and Louisa B. Briggs maliciously and in bad faith,

knowing that there was not probable cause to believe that plaintiffs had committed the crimes with which they had been charged.

3. As a result of the institution of criminal charges against plaintiffs, plaintiffs were arrested and required to appear before a judge of the District Court of the State of Rhode Island to defendant [sic] against these charges.

4. The criminal charges instituted against plaintiffs have since been dismissed.

5. As a direct and proximate result of the actions of Defendant Edward Malley, Plaintiffs James R. Briggs and Louisa B. Briggs were unlawfully arrested and imprisoned, suffered severe and permanent injuries to their bodies, nerves and nervous systems and were otherwise injured, were prevented from transacting their business, suffered a loss of wages, had their earning capacity impaired, had their reputation damaged, and suffered great pain of body and mind, humiliation and indignity.

WHEREFORE, Plaintiffs James R. Briggs and Louisa B. Briggs each demand judgment against Defendants Edward Malley and the State of Rhode Island, jointly and severally, in the amount of One Million Dollars ($1,000,000) as compensatory damages, plus interest, and One Million Dollars ($1,000,000) as punitive damages, plus costs.

COUNT IV

1. The allegations of Count I are incorporated here as if set forth in full.

2. On or about February 25, 1981, Defendant Edward Malley published a statement which charged Plain-

tiffs James R. Briggs and Louisa B. Briggs with criminal conduct.

3. The publication of the statement by Defendant Edward Malley was made maliciously, with knowledge of its falsity.

4. As a direct and proximate result of the actions of Defendant Edward Malley, information which implicated plaintiffs in drug trafficking was released to news reporters maliciously and with knowledge of its falsity or in reckless disregard thereof, and with the expectation and desire that the information would be reported throughout Rhode Island. As a result, news reports of the arrest and detention of plaintiffs, which implicated plaintiffs in drug trafficking, were carried on television and in newspapers and otherwise circulated in news reports around Rhode Island.

5. As a result of the publication of this information, plaintiffs were held up to public scorn and ridicule.

6. As a direct and proximate result of the actions of Defendant Edward Malley, Plaintiffs James R. Briggs and Louisa B. Briggs were unlawfully arrested and imprisoned, suffered severe and permanent injuries to their bodies, nerves and nervous systems and were otherwise injured, were prevented from transacting their business, suffered a loss of wages, had their earning capacity impaired, had their reputation damaged, and suffered great pain of body and mind, humiliation and indignity.

WHEREFORE, Plaintiffs James R. Briggs and Louisa B. Briggs each demand judgment against Defendants Edward Malley and the State of Rhode Island, jointly and severally, in the amount of One Million Dollars ($1,000,000)

as compensatory damages, plus interest, and One Million Dollars ($1,000,000) as punitive damages, plus costs.

COUNT V

1. The allegations of Count I are incorporated here as if set forth in full.

2. As a direct and proximate result of the actions of Defendant Edward Malley, plaintiffs were falsely imprisoned, there being no probable cause to believe that plaintiffs had violated the statute under which they were charged.

3. As a direct and proximate result of the actions of Defendant Edward Malley, Plaintiffs James R. Briggs and Louisa B. Briggs were unlawfully arrested and imprisoned, suffered severe and permanent injuries to their bodies, nerves and nervous systems and were otherwise injured, were prevented from transacting their business, suffered a loss of wages, had their earning capacity impaired, had their reputation damaged, and suffered great pain of body and mind, humiliation and indignity.

WHEREFORE, Plaintiffs James R. Briggs and Louisa B. Briggs each demand judgment against Defendants Edward Malley and the State of Rhode Island, jointly and severally, in the amount of One Million Dollars ($1,000,000) as compensatory damages, plus interest, and One Million Dollars ($1,000,000) as punitive damages, plus costs.

James R. Briggs and
Louisa B. Briggs

By their Attorneys,
Decof & Grimm
One Smith Hill
Providence, RI 02903

/s/ Leonard Decof

DATED: September , 1981.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF RHODE ISLAND

C. A. No. 81-0577 P

JAMES R. BRIGGS and LOUISA BRIGGS

vs.

EDWARD MALLEY and
THE STATE OF RHODE ISLAND

ANSWER OF EDWARD MALLEY

Defendant, Edward Malley, states the following in answer to the complaint in the above-entitled action.

First Defense

The Court lacks jurisdiction over the claims against Edward Malley in that the action is, in essence, an action against the State of Rhode Island and therefore, said claim is barred by the Eleventh Amendment to the United States Constitution.

Second Defense

The complaint fails to state a claim upon which relief can be granted, in that the facts alleged do not support a claim under 42 U.S.C. § 1983, nor do they state any claim against the defendant cognizable in a federal forum.

Third Defense

The defendant has absolute immunity and/or the qualified immunity of good faith from this action.

Fourth Defense

1. Defendant denies the allegations contained in paragraphs one and two of that portion of the complaint denominated "Jurisdiction."

2. Paragraphs one, two and three of that portion of the complaint denominated "Parties" characterize the cause of action and therefore, demand no response. Paragraph four of that same section characterizes the cause of action to the extent that it is alleged that "Defendant State of Rhode Island is a sovereign State of the United States of America;" and with respect to the remaining part of that paragraph, the defendant responds that it is without sufficient information to form a belief as to the truth of the allegations.

3. Defendant admits the allegations contained in paragraphs one and six of that part of the complaint denominated Count I.

4. Defendant denies the allegations contained in paragraphs two, three, four, five and seven of that portion of the complaint denominated Count I.

5. Defendant incorporates its answers to the allegations of Count I in answering paragraph one of those portions of the complaint denominated Count II, Count III, Count IV and Count V.

6. Defendant denies the allegations contained in paragraphs two, three, and four of that part of the complaint denominated Count II.

7. Defendant denies the allegations contained in paragraphs two, three and five of that portion of the complaint denominated Count III.

8. Defendant admits the allegations contained in paragraph four of that portion of the complaint denominated Count III.

9. Defendant denies the allegations contained in paragraphs three, four, five and six of that portion of the complaint denominated as Count IV.

10. Paragraph two of that portion of the complaint denominated as Count IV calls for a conclusion of law, and therefore demands no response. If it is determined that it does not call for a conclusion of law, defendant denies the allegations contained therein.

11. Defendant denies the allegations contained in paragraphs two and three of that portion of the complaint denominated as Count V.

WHEREFORE, defendant, Edward Malley, demands judgment in his favor and such further relief as this Court may deem proper.

Edward Malley

By his attorney,
Dennis J. Roberts II
Attorney General

/s/ Faith A. LaSalle
Special Assistant
Attorney General
72 Pine Street
Providence, R.I. 02903

[Certification omitted in printing.]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Docket No. C.A. 81-0577

Providence, Rhode Island
February 1, 1984
February 2, 1984

JAMES BRIGGS
LOUISA BRIGGS

Plaintiffs

vs.

STATE OF RHODE ISLAND
EDWARD MALLEY

Defendants

STATE OF RHODE ISLAND
EDWARD MALLEY
TRANSCRIPT OF DECISION
BEFORE THE HONORABLE RAYMOND J. PETTINE,
SENIOR JUDGE, and a jury.

• • • •

[2] JAMES RHODES BRIGGS, SWORN

Direct Examination

BY MR. FOLEY:

Q. Mr. — Where do you live, Mr. Briggs?

A. In Narrangansett, at 15 Carver Lane.

Q. How long have you lived in Narragansett?

A. Since approximately 1950. Before that I lived in South Kingston.

Q. Are you married?

A. Yes, I am.

Q. And is this your wife sitting here in court today?

A. Yes, it is.

Q. You have any children?

A. Four children.

Q. What business are you involved in, Mr. Briggs?

A. I'm in the real estate development business.

• • • •

[3] Q. While you've lived in Narragansett have you held any elected office?

A. Yes, I have.

Q. What was that?

A. I was elected for eight years as a town tax assessor.

Q. Have you been involved in any community organizations?

A. Yes, I have.

Q. What are those?

A. I've been chairman of the Heart Fund drive in Narragansett, chairman of the Multiple Dystrophy drive. I've been president of the Narragansett Chamber of Commerce and also assisted in other fund raising things for charities.

Q. Do you have any involvement with any financial institutions in the area?

A. Yes, I do.

Q. What is that?

A. I'm a director of the Pettaquamscutt Credit Union which is a local bank in Wakefield. and I'm an officer of their organization, secretary of the board.

Q. Do you belong to any social clubs?

[4] A. Yes, we belong to the Dunes Club, we belong to Point Judith Country Club and I belong to the Elks. I was a charter member of the Elks in South Kingston.

Q. Mr. Briggs, do you recall the morning of March 19, 1981?

A. Yes, I do.

Q. Do you recall the events that transpired in the morning?

A. Yes, I do.

Q. What is the first thing you recall about that morning?

A. Well, being awakened at about quarter of six, I would say, in the morning.

Q. And how were you awakened?

A. By a loud knock on the door.

Q. Where is this door in your house with respect to where you were?

A. It was the rear door, the back door of the house.

Q. Is this — is your room located near this door?

A. Fairly near, yes.

Q. What happened after you heard the knock on the door?

A. I jumped out of bed and I put my robe on, and went to the door. I didn't know who it would be at that early in the morning.

Q. What did you see when you got to the door?

A. Several policemen and police cars outside with the red — two Narragansett police cars with the red lights flashing.

[5] Q. Did you recognize any of the police officers that you saw?

A. Yes, I did.

Q. Who did you recognize?

A. Captain Cooke from the Narragansett Police Department. Detective Captain Cooke of the Narragansett Police Department and Sergeant Billy Wall from Narragansett. And Captain O'Donnell from Narragansett Police Department. There also was a state police lieutenant in plain clothes, whom I didn't know.

Q. Have you subsequently found out who that officer was?

A. Yes.

Q. Who was that?

A. A Lieutenant Almberg of the Rhode Island State Police.

Q. Did Lieutenant Almberg say anything to you?

A. Yes, he did. He said I have arrest warrants here for you and your wife.

Q. Did you say anything in return to tht [sic]?

A. I said, What? He said I have arrest warrants here for you and your wife, and I said, there's — I don't — there's got to be a mistake here.

• • • •

[6] Q. What happened next?

A. I invited them in and they said I would have to get my clothes on and —.

• • • •

Q. What did you do after they told you you had to get your clothes on?

A. They said we would have to go up to the Barracks at Wickford.

Q. So after you had your clothes on, what did you do?

A. Oh, I went upstairs and got my — to wake my wife up.

Q. Did you say anything to her?

A. Yes, I said, you have to get your clothes on. We have to take a ride, and she said, a ride? At this time of the morning? And I said yes. And I — sternly I said to her, we have been arrested and we — the police are downstairs and we have to go to the Barracks.

Q. What was her reaction that you observed?

[7] A. She, she couldn't believe it.

• • • •

Q. Did you leave your house with the police officers?

A. Yes.

Q. Where did you go when you left your house?

A. Well, I started to go to my car, I was going — and I said to Lt. Almberg, shall I take my car, and he said no, Jim, you better come with us.

Q. Did you get into his car?

A. Yes.

Q. And was your wife with you?

A. Yes.

Q. Where did you go when you were in the police car?

A. They took us to the Wickford Barracks.

Q. What were you feeling at this time during the ride up to the Wickford Barracks?

A. Well, I was asking questions trying to find out what the [8] — why we were being arrested.

Q. And did you receive any response?

A. Not why they — they just said it was drug related charges.

Q. When you arrived at the Wickford Barracks, what was the first thing that happened?

A. We were brought into a small room and told to wait there.

Q. How long were you in that small room?

A. Probably a half an hour.

Q. What happened next?

A. Then a State Police, I guess he's a fingerprint man, records man, or something for the State Police came in and wanted to know who wanted to be fingerprinted first, me or my wife.

Q. And who went to be fingerprinted first?

A. My wife did.

Q. Did you go — did you subsequently go to have your fingerprints taken?

A. Yes, I did.

Q. Describe what was done? How the fingerprints were taken.

A. Well, they held your hand and dipped it in ink and made prints on a — on a record sheet.

Q. How did you feel while that process was going on?

[9] A. Very humiliated.

Q. After your fingerprints were taken, what happened next?

A. Then they took us into a large room which used to be the three car garage on the Barracks. They use that as an incarceration room.

Q. Do you recall approximately what time it was now? When you were placed in this room?

A. It probably was about quarter of seven or seven o'clock at that time.

Q. Was your wife with you at the time?

A. Yes. Yes, she was.

Q. Did the police have any more procedures to do with respect to you while you were in this room?

A. Yes, they did. They photographed us in the — in this big room with holding numbers in front of us, took side views, group views, front views with this number in front of us.

Q. How did you feel while that process was going on?

A. Very humiliated again. I was — because I was dumbfounded by the whole thing.

Q. Did you have any conversations with anyone while you were in that room? Concerning what was going on?

A. Yes, I talked to a young trooper there.

Q. What did you say to him?

A. I wanted to know why we were being arrested for what, [10] on what charges.

Q. Did you receive any response?

A. No. Just drug related charges, that's all.

Q. How long were you in this garage-type room?

A. We were there until approximately, in my mind, about anywhere two to two-thirty in the afternoon.

Q. And what happened at two or two-thirty in the afternoon?

A. They lined us up and paraded us out through in front of the camermen [sic] and the photographers to get on the bus.

Q. Did you have some conversation with your wife before this happened?

A. Yes, I did.

Q. What did you say to her?

A. I said to her, we haven't done anything wrong, and there's no reason why we shouldn't just walk out there and get on the bus. And then —

Q. Is that —

A. Then I remembered that my father at the time was ninety-five and my mother was ninety-two and they watched the news every night, and if they ever saw us on television being arrested in a drug raid, it could kill either one of them.

Q. So what did you decide to do?

A. We decided to cover our faces with our coats and get on the bus that way.

[11] Q. Could you describe where the bus was located and where the cameramen were located?

A. They had the bus at least, oh, a hundred and fifty feet away or a hundred feet away from the door to the barracks, so that they could get the press all lined up on both sides to run us through the gauntlet.

Q. So you had to walk in between the cameras?

A. Yes. Cameras and troopers both.

Q. And —

A. Who I might say, were harassing us at the time.

MISS LaSALLE: Objection. Unresponsive.

THE COURT: Overruled. Proceed.

Q. What were the troopers saying to you at this time?

A. Well, they were — it was like they were driving cattle through a, through a chute. They were hollering and making — it was very degrading, what they were doing.

Q. After you got on the bus, what happened next? Where did you go?

A. They took us to the West Kingston Courthouse.

Q. And when you got to the West Kingston Courthouse, what happened next, after the bus arrived there?

A. I was supposed to be at the courthouse that morning for a land transaction that was going on that had to go before the court. And Ed Hogan was there at the time to represent me in this land transaction and I —. Am I saying too much?

[12] Q. Had he waited there for you?

A. What's that?

Q. Had Mr. Hogan waited there in court for you?

A. Yes.

Q. Did you see him when you arrived at the courthouse?

A. Yea, I did.

Q. And what happened in getting from the bus to the courthouse?

A. They took some more pictures at the courthouse.

Q. Were these cameramen who were outside the courthouse?

A. Yes. Waiting.

Q. Were you allowed to speak to your lawyer when you arrived at the courthouse?

A. I was, yes. I — he had some papers that I had to sign pertaining to the land transaction, what went on in the court, which I couldn't be there for, and I signed those papers.

* * * *

[13] Q. After you spoke to Mr. Hogan what happened next?

A. We were brought into the courtroom and waited there for our arraignment.

Q. Did the judge come in?

A. Yes, he did.

Q. What happened after the judge came into the courtroom?

A. Individually we were brought before the judge and he read our charges and he asked us how we pleaded.

Q. Do you recall what charges he read that day?

[14] A. I don't really. I was so upset I don't even know what the judge said.

Q. Prior to the judge reading the charges to you, had you been told by anybody anything about your charges other than that they were drug related?

A. No, we had not been told.

Q. Did you make some plea in response to what the judge had read?

A. Either Ed Hogan or I pleaded not guilty, I'm not — I don't even remember. I guess I pleaded not guilty.

Q. What did you do after your not guilty plea?

A. We were sent downstairs to sign for the bond, I guess it was, or something.

Q. When you were downstairs did you see anyone from the State Police?

A. That's the first time I met Officer Malley.

Q. That's the gentleman seated at the defense counsel table with the blue shirt?

A. Yes.

MR. FOLEY: Your Honor, may the record reflect that the witness has identified the defendant, Edward Malley?

THE COURT: It may.

MR. FOLEY: Thank you.

Q. Did you say anything to Officer Malley?

A. Yes, I said, why have you done this to me? We haven't [15] done anything wrong and here you've arrested us. And he said very sarcastically to me, you'll have your day in court.

Q. Was that the end of your conversation with him?

A. Yes, it was.

Q. After that conversation Mr. Briggs, where did you go?

A. Out into the lobby and waited for a ride home.

• • • •

[29] Q. Do you recall, Mr. Briggs, the evening of December 19, 1980?

A. December 19th?

Q. Prior to your arrest?

A. Yes.

Q. Do you recall what you did that evening?

A. Yes. We were invited to a party at some friends of ours house, the Warburton's, and it was a party of local people. There were a good many people there from the area, friends of ours, and we were there until, oh, at least midnight or after.

Q. And when you left the Warburton's house, where did you go?

A. We went home.

Q. When you got to your home, was anyone else there?

A. Yes.

Q. Who do you recall being present?

A. Well, my two daughters were there, and their boyfriends. And there was another couple there.

[30] Q. Was there a party going on in your home?

A. Not really a party, no. There was — they were just sitting around, but it wasn't like a party.

Q. Did you observe anyone at that time smoking marijuana in your home?

A. No, I did not.

Q. Have you yourself ever smoked marijuana?

A. No, I have not.

Q. Have you ever had that or any other drug in your possession at any time?

A. No, I have not. Not other than prescription drugs from the drugstore, prescribed by a doctor.

• • • •

Cross Examination

BY MISS LaSALLE:

[33] Q. Now, turning to the day of your arrest. You've testified that you were brought to the Wickford Barracks and that you were brought eventually, you were brought into a room . . . . the large room in the garage where there are seats for everyone to sit down.

A. Yes.

[34] Q. Did you recognize anyone when you walked in that room?

A. Yes, I did.

Q. And who did you recognize?

A. A David Coleman.

Q. And how do you know David?

A. David is married to my niece.

Q. And you spent a few hours in that room, is that correct?

A. Yes. Correct.

Q. And during that course of time, did other people come into the room?

A. Yes.

Q. Approximately how many?

A. I think the papers said what, seventeen or something like that?

Q. And did you recognize anyone else who was brought in that, into the room?

A. Yes.

Q. And who was that?

A. My daughter was brought into the room.

Q. And what is her name?

A. Jaime DeJoira.

Q. And did you recognize anyone else?

• • • •

[35] A. I don't think I knew — I knew David Coleman, my nephew and I knew my daughter and I don't think I knew anyone else in the room at all, no.

Q. Did you know Paul Driscoll?

A. Yes, I'm sorry, I did.

Q. How did you know Paul Driscoll?

A. Paul Dr[illegible]ll, at the time was going with my daughter.

Q. All right. And were they brought into the room together, Mr. Briggs?

A. I — not together, no.

Q. Approximately at the same time, is that correct?

A. Yes.

Q. Now, had you known Paul Driscoll for maybe — for a period of time prior to that?

A. For probably three or four weeks prior to that. Not too long before that.

Q. Three or four weeks?

A. Yes.

Q. So is it fair to say the first time you met him was maybe in February of 1981, is that what you're saying?

A. Could have been longer, it could have been a couple of months or something like that. Wasn't too long before that. It was —

Q. Did you know him in December of 1980?

* * * *

[36] A. Okay. December of 1980, oh yes, I did know him in December of 1980.

Q. Okay. And did you occasionally have the opportunity to call him on the telephone?

A. Did I?

Q. Or to call his telephone number?

A. If I wanted to speak with my daughter I would call there, yes.

Q. Okay. Turning to the date of December 19, 1980, you have testified here today that you returned from a party. You returned to your house late that evening?

A. Right.

Q. Approximately twelve o'clock, is that fair to say?

A. Twelve, twelve-thirty, somewhere in there, yes.

Q. And at that time two of your daughters were there with friends, is that correct?

A. Right.

Q. And could you tell us the name of the friends?

A. One was this Paul Driscoll and David Coleman and my niece was there, Carolyn Gross Coleman. And Sandy, my other daughter, was there with her fiance, they just came in from [37] Washington, DC and his name is — was Scott Paul.

Q. And did —

A. They're now married.

Q. And they were in your house at the time you arrived, is that correct?

A. Yes.

Q. And what part of the house were they in?

A. I guess in the livingroom, they had a fire going in the fireplace.

Q. And did you sit down and talk to them for awhile?

A. Not — like hi. Not very long, no. I didn't sit down with them. I have a chair over in another part of the house which is my easy chair and I watch television over there and that's where I went.

Q. You did say hello to them? That's corect.

A. Yes, I did.

Q. And would you say you communicated with them from maybe five or ten minutes, or twenty?

A. No, five minutes or so.

Q. Okay. Was your wife with you also at that time?

A. Yes, she was.

Q. And did she also communicate with this group of people for awhile?

A. Yes, she did.

Q. Did she stay and talk to them longer than you did?

[38] A. Maybe five minutes longer than I did, then she went up to bed.

Q. How long were you downstairs? On that evening.

A. Well, I probably fell asleep in my chair, and I—I don't know. I don't know. I was there maybe an hour or so.

• • • •

LOUISA BROWNING BRIGGS, PLAINTIFFS' WITNESS, SWORN

Direct Examination

BY MR. FOLEY:

Q. Mrs. Briggs, it may go without saying, but you are the wife of Mr. Briggs, who is sitting here at counsel table?

A. Yes.

Q. Where do you live, Mrs. Briggs?

A. 15 Carver Lane, Narragansett.

Q. You live there with your husband?

[39] A. Yes.

Q. How long have you lived in Narragansett? Or the southern Rhode Island area?

A. Oh, since we, we were married in '51 and we've lived in Narragansett that long. I've been in the area since I was ten years old.

• • • •

Q. Do you have any children, Mrs. Briggs?

A. Yes, four children.

Q. What are their names?

A. Nancy Fell, F-E-L-L, Jamie DeJoira, D-e-J-o-i-r-a, Sandra Paul, P-a-u-l, and Jeffrey Briggs.

Q. Do any of those children live at home with you still?

A. My son, Jeffrey Briggs.

Q. Mrs. Briggs, do you recall the day, March 19, 1981?

A. Very vividly.

Q. What is the first thing you recall about that day?

A. Hearing the knock on the door. It woke me. And then my—I heard voices downstairs and then my husband came up [40] the stairs and woke me up. Well, he didn't wake me. I was awake. He came up and told me to put my clothes on, we were going to take a ride. And I said, at this hour? And he said put your clothes on, we have just been arrested. So I'd come down.

Q. What was your emotional feeling at that point when you—when he informed you that you had been arrested?

A. I didn't believe it. I, I couldn't believe it.

Q. What happened after that?

A. I walked down the stairs and looked in the kitchen and the downstairs and there were troopers, some in uniform—well, some in uniform and there was a gentleman out of uniform in plain clothes.

Q. Did you recognize any of the uniformed officers?

A. No, I don't think I really looked at them even.

Q. Did you see any police cars there?

A. Yes. Two with flashers and two other cars.

Q. What happened after you went downstairs?

A. We left the house. Jim said, shall I drive my own car? And they said, no, you'd better ride with us.

And then he said, well, how am I going to get home, and Mr. Almberg, Lt. Almberg, that is his name, said, well don't worry about it, we'll get you home.

Q. Was this the gentleman who was in plain clothes?

A. Yes.

[41] Q. Did you get into one of the police vehicles?

A. Yes. In an unmarked car.

Q. Was your husband with you at the time?

A. Yes, he was in the back seat with me.

Q. Do you recall who the police officers were who were driving the car and riding with you?

A. Captain Cooke from Narragansett and Lt. Almberg.

Q. Had you known Captain Cooke prior to this day?

A. Yes.

Q. How did you know him and how long had you known him?

A. Well, from growing up in town and being in town and we knew his parents before that.

Q. Can you say roughly how long you've known Captain Cooke?

A. I would say we've known the family since we were married in '51 and lived in Narragansett together.

Q. Where did you go when, in the police car when you left your home?

A. Directly to the barracks.

Q. Do you recall that ride up to the barracks?

A. Yes, I do.

Q. Can you describe how you were feeling during that ride?

A. I started to shake, I felt nauseated, couldn't figure out—very confused, couldn't figure out what was happening.

Q. What happened when you arrived at the barracks?

A. We were put into a small room together.

[42] Q. And how long were you in that small room?

A. Oh, not very long. And then an officer in plain clothes came in and took us to—took us. Me first, to another room to be fingerprinted.

Q. Can you describe what that process involved, the fingerprinting process.

A. He put each finger in the ink and pressed it onto the paper and took three sets of prints, and I had to sign for each one.

Q. Mrs. Briggs, how did you feel while this was going on?

A. I couldn't believe it was happening. It—things like this just don't happen. Not to us.

Q. What happened after the fingerprinting was done?

A. We were put in the end room, the garage as we like to call it. It was cold in there. Later, a photographer came in and took pictures with the numbers, front, side views, and then group pictures.

Q. When you say with the numbers, what do you mean?

A. A card with numbers to be held up in front. I guess identification numbers. I remember asking the trooper what happens to these when you find out that we haven't done anything, that we're innocent. He said, oh, they'll be disposed of.

Q. What did you say in response to that?

A. I said, don't you dispose of them. I'd like to come to [43] the station myself and do that, I want to make sure that they're out of the records.

Q. Do you recall how many photographs were taken, roughly, of you personally?

A. There was a full front photograph and then I think one from each side, and then maybe two in different groups of people who had been brought in that day.

Q. There were people being brought in after you had gone into this garage room?

A. Yes. Um hmm.

Q. How was your husband reacting to all of this? What did you observe about his reaction?

A. He was very agitated and upset. He paced the room all day. He never sat down once. He was just very upset. I was concerned because we left home without any medication and he has high blood pressure, and he takes it four times a day.

Q. Roughly, how long were you in this garage type room?

A. Until maybe two-thirty, three o'clock in the afternoon.

Q. What happened then?

A. We were put on the bus and taken to the West Kingston Courthouse.

Q. Before you were put on the bus, did you have any discussion with your husband about getting on the bus?

A. Yes. We decided to walk out straight and tall with our heads up in the air, because we felt this was the way to do [44] it. And then he said to me, well, what about my parents and your mother? They will probably see all of this on the news tonight. We'd better cover up like the rest of the group.

Q. Have you seen some newsmen outside?

A. Oh, yes. They were all lined up with cameras and—

Q. When you say lined up, can you describe exactly what you saw?

A. Well, along the path that we would have to take to the bus, they were along that path with the cameras all set up.

Q. So when you finally went out to the bus, how did you proceed out to the bus?

A. In pairs, in a line and just told, hurry along, get on the bus and do this and do that.

Q. Did you cover up your faces?

A. Yes, we did.

Q. How did you do that?

A. I had a jacket on and I pulled the jacket over my head and covered up as much of my body as I could even.

Q. How were you feeling at this point in going out to the bus and covering up your head with your coat?

A. Very degraded. I felt like a criminal. I felt as though this is the way people—now, I've seen all this on television before, I know how, you know, how you would feel now. I'm going through this nightmare.

Q. And when you got on the bus, where did you go?

[45] A. Directly to the courthouse.

Q. What did you see when the bus first pulled into the courthouse?

A. Photographers.

Q. Where were they located?

A. On the court steps outside.

Q. Did you leave the bus?

A. Yes.

Q. Were there more pictures taken?

A. Yes, there were.

Q. Did you cover yourself up there?

A. No.

Q. Not?

A. I think I just had it at that point. It was, forget it, it's over.

Q. What happened when you got into the courthouse?

A. We were ushered into a courtroom and told to take a seat. It was an empty courtroom. My husband stayed in the hall with the lawyer that he told you about that he had a meeting with that morning. An appointment with. And I know at one point I got up from my seat to go out. I thought I had to sign papers also, and I was told to sit down. And I stood up and I said, my husband is in the hall. We have a lawyer there, and I might have to sign papers. And this officer stood up in front of me and said, you will sit down. [46] And I think at that point if I hadn't, I would have been pushed down.

Q. What happened after you sat down in the courtroom?

A. We waited for the judge to come in and he had a stack of papers like this, in front of him. Mine was the one on top. I was the first one called.

Q. What did you do when your name was called?

A. Stood before him and he read this paper and that's the first time we had any inkling of why we had been arrested.

Q. When you were standing before him, were there other people in the courtroom?

A. Police. The other—yes, there were other people in the back of the courtroom. I don't know whether they were relatives of the people who had been arrested, whether they were attorneys or what.

Q. There were people in addition to those who had been arrested?

A. Um hmm. Yes.

Q. Do you recall what the judge said about the charges against you?

A. I was so upset, I really don't remember him even reading them to me. I remember pleading guilty or not guilty or whatever and I said not guilty. And they handed me papers and said go downstairs and sign them.

Q. Can you tell the jury what was going through your mind [47] while you were standing up in front of the judge and hearing the charges against you?

A. Well, this—things like this don't happen here. I mean this is something that happens in Russia, or somewhere else that you hear about. It's happening to me, right here. And I couldn't believe it. It was beyond my comprehending. I just thought, not me, not here, not now.

Q. What happened after you left the courtroom and went downstairs?

A. I had to sign the papers that they handed me. I think that's what it was. And I signed papers and then waited for my husband to come down. Went out in the hall and waited.

Q. What happened after that?

A. We were picked up and taken home by family.

* * * *

[52] Q. Do you recall the evening of December 19, 1980?

A. Yes, I do.

Q. Do you recall what you did that evening?

A. We went to a social party, Christmas party.

Q. Where was that party?

A. At Ralph Warburton's in Narragansett.

Q. How long—how late were you at that party?

A. It was after twelve. It was a large party. Oh, I'd [53] say there were 150 people there and there was a three piece band and entertainment, and it was a large party. We were there until after twelve.

Q. Did you come right home after that party?

A. Yes.

Q. Was there anyone in your home when you got there?

A. Yes. Four couples. My daughter Sandy and her fiance. They had just come in from Washington. They had invited a couple over to spend the evening with them, a young couple. And then my daughter Jaime, Paul Driscoll, Carolyn and David.

Q. When you say Carolyn and David—

A. Carolyn and David Coleman. Carolyn is my niece. The four of them had been out for dinner, Carolyn was sick and the closest place was my house, so they stopped at my house. And when I got in and she had already been sick and I was helping her with alka seltzer, trying to straighten her out.

Q. What were the other people doing when you got home?

A. Sitting by the fire in the living room and trying to take care of Carolyn who was not well.

Q. Would you describe what you saw as a party going on?

A. Four couples sitting around a fireplace, maybe they were having a drink, but that was it.

Q. How long did you stay with the people who were at your house that night?

A. Total, maybe a total of fifteen minutes.

[54] Q. What did you do after that?

A. I went right to bed.

Q. Mrs. Briggs, did you see any marijuana?

A. No.

Q. In your home that night?

A. No, I did not.

Q. Did you see anybody smoking any marijuana cigarettes?

A. No.

Q. Did anybody pass you a marijuana cigarette that night?

A. No.

Q. Have you ever had marijuana or any other illegal drugs in your possession, Mrs. Briggs?

A. No.

* * * *

Cross Examination

BY MISS LaSALLE:

Q. Mrs. Briggs, turning to the day upon which you were arrested in March. After you were picked up at your home, you traveled to the Wickford Barracks, and at that

time, after you were fingerprinted and what-not, you were brought into a large room, is that correct?

A. Yes.

Q. And when you entered that room, did you recognize anyone?

A. David Coleman.

[55] Q. And he is your niece's husband, is that correct?

A. Yes.

Q. And during the course of that day, several other individuals were brought into that room as they were arrested, is that correct?

A. That is right.

Q. And during the course of while the other people came in, did you recognize anyone else?

A. My daughter Jaime and Paul Driscoll.

Q. And how do you know Paul Driscoll?

A. Jaime came home from California where she was living after Thanskgiving in 1980, the end of the month, and Paul picked her up at the airport and brought her home and that's when I met Paul.

Q. Where was Jaime Briggs living then? Jaime DeJoira, is that her marriage name?

A. Yes. Yes. She's Jaime DeJoira. She was first at home with me, and then she moved in with Paul.

Q. And you believe you first met him in November of that year, if [sic] that right?

A. Yes, I know I did.

Q. And did he frequently come to your house during that period of time?

A. Yes, with Jaime. They would come to dinner, or just to visit or—

[56] Q. Did he attend some parties at your house?

A. Yes, he did.

Q. How frequently did they come to your house?

A. We're a close family and if I didn't talk to Jaime every day on the phone, I think I saw her every second or third day at least.

Q. So they frequented your house quite a bit?

A. Yes, they did.

Q. Now, was Jaime—was she—had she moved to Rhode Island for any purpose or—

A. Yes. Jaime was separated from her husband and initiating divorce proceedings and she had come home to Rhode Island.

Q. Now, you mentioned that friends of yours brought you home after you were arraigned at the courthouse, is that correct?

A. That's right.

Q. And who brought you home?

A. Jaime's ex-husband.

Q. And he was in Rhode Island at that time?

A. He was in Rhode Island. He was in Newport when all of this happened and I guess my son Jeffrey called

him, and he came right over. We're still very close. He is the father of my granddaughter and we are close.

* * * *

[72] EDWARD PETER MALLEY,
PLAINTIFFS' WITNESS, SWORN

Examination

BY MR. FOLEY:

Q. Mr. Malley, you're a member of the Rhode Island State [73] Police, is that correct?

A. Yes, sir.

Q. And you hold the rank of corporal now?

A. Yes, sir.

Q. When did you first join the state police?

A. I was sworn in on August 17, 1969.

Q. And you were sworn in as a trooper?

A. Yes, sir.

Q. And how long did you hold the rank of trooper?

A. Till 1978.

Q. Mr. Malley —

THE WITNESS: No, correction on that. I made a mistake. Till 1981.

Q. When in 1981 did you receive a promotion?

A. September 6, 1981.

Q. And that's to the rank that you now hold, is that right?

A. Yes, sir.

Q. And that's corporal.

A. Yes, sir.

Q. In 1980, the end of 1980, and the beginning of 1981, you were in the detective's division, is that right?

A. Yes, sir.

Q. And you were assigned to the narcotics duty, is that correct?

A. Yes, sir.

[74] Q. And you became involved in an investigation involving a gentleman known as Paul Driscoll, is that right?

A. Yes, sir.

Q. And in the course of that investigation, you received permission from the Superior Court to place a wire tap on his phone, is that correct?

A. His and somebody else's.

Q. All right. But his phone, anyway, is that right?

A. That's correct.

Q. And it was as a result of that investigation that you proceeded to obtain an arrest papers, for the arrest of Mr. and Mrs. Briggs, is that right?

A. I put affidavits together and brought them to a judge for his review.

Q. Right. And the judge signed these papers and the Briggs were arrested, is that correct?

A. That's correct.

Q. And you were the officer in charge of that investigation, is that right?

A. Yes, sir.

* * * *

[86] Q. Mr. Malley, I'm going to show you documents that we have marked as plaintiffs' exhibits 1 and 2 for identification, and ask you if you recognize them?

A. Yes, I did.

Q. Could you tell me what those are?

A. They are arrest affidavits with the complaint.

Q. And who do they pertain to?

A. One pertains to Louisa B. Briggs and the other to James R. Briggs.

Q. These are documents that you prepared, is that correct?

A. The affidavit, yeah, I would have prepared. Yes I did.

MR. FOLEY: Your Honor, I'd like these exhibits marked full for — for full at this time. The document pertaining to James Briggs as plaintiffs' 1, and the document pertaining to Louisa Briggs are plaintiffs' 2, full.

THE COURT: I hear no objection. They may be marked.

* * * *

[87] Q. Mr. Malley, I put up on the screen page 1 of the document marked as plaintiffs' exhibit 1 for identification, and I'd like to ask you a few questions about that. You completed the typewritten portion at the top

up to and including the part denominated arrest warrant, is that correct?

A. Up — yeah. The top part, yes.

Q. And you completed the two lines below where it says arrest warrant, those lines begin State ex rel vs. defendant, those were filled in by you, is that correct?

A. That's correct.

Q. And that's something that you filled in prior to taking the paper work to a judge for the judge's review, is that right?

A. That's correct.

Q. And then after you take it to the judge for review, he either signs it or doesn't sign it. In this case, he signed it, is that right?

A. Yes, in this case he signed it, yes.

Q. Is that his signature that appears toward the bottom of the page, Judge of District Court?

A. That's correct.

[88] Q. I'd like to put up the second page of that document also so we can refer to that.

THE COURT: Is that the second page of the affidavit?

MR. FOLEY: Yes, your Honor.

THE COURT: All right.

Q. Officer, the second block here, where it was denominated affidavit and there's some typewritten portion that begins "pursuant to a court order wire intercept."

The last typewritten line there says, "see attached affidavit." I'm going to show you the second page of the document that we marked as exhibit 1, and ask you if that is in fact the attached affidavit.

A. That's correct.

* * * *

[90] Q. And then there's a signature line at the bottom, that's your signature, is that correct?

A. As the affiant.

Q. And below that there's a line and it says "judge" and there's a signature there. Do you know whose signature that is?

A. Judge John J. Cappelli.

Q. He signed that in your presence?

A. Yes, he did.

* * * *

Q. The page that now appears on the screen as page 3, is the same as the page 3 of exhibit number 1 that you have before you?

A. Yes.

Q. Have you typed in the information on this page?

A. Yes.

Q. When did you type that in?

[91] A. When I was preparing these. The paperwork.

Q. All right. This was prior to a hearing before Judge Cappelli, is that right?

A. Yes, sir.

Q. All right. In fact, you prepared these affidavits some time around ten days after the wire tap shut down, is that right?

A. About that.

Q. That was around the turn of the year, sometime early January or late?

A. Well, we shut down in January.

Q. Of 19 —

A. '81.

* * * *

[92] Q. Referring to your — referring your attention to the document that we've marked as plaintiffs' exhibit number 2 for identification. Is it fair to say that this document is similar to the three page document we just saw, except it refers to Louisa Briggs?

A. Yes, sir.

Q. All right. I've now put up the first page of the document on the screen, and that corresponds to page 1 that you have before you. Is that right?

A. Yes, sir.

Q. And there again is the affidavit section that you filled out before you appeared before Judge Cappelli, is that right?

A. Yes, sir.

Q. And you filled this out some time in early January?

A. No. No. We didn't shut down until the latter part of January, so it would be the end of — beginning of February.

• • • •

[93] Q. I have now put up a transparency that reflects page 3 of the exhibit. Is that correct?

A. Yes, sir.

Q. And again, you typed in the information that appears [94] in typing on this document some time late January or early February?

A. Yes.

• • • •

THE COURT: What is this document for, Mr. Foley?

MR. FOLEY: Mr. Malley, what use do you make of this document? What is the purpose of this document, this third page of the exhibit?

THE WITNESS: It's what we call a complaint, basic complaint.

Q. This is something that's filed in court, is that correct?

A. Yes, the original would go to the court.

• • • •

THE COURT: All I'm trying to get across so that [95] the jury will understand, is whether or not this document is necessary before an arrest warrant issues.

Q. All right, could you answer that question, Mr. Malley?

A. The arrest warrant. Yes, it would be necessary.

Q. This is something that's presented to the judge that you're asking to sign the warrant, is that correct?

A. The — you're confusing me a little bit, Mr. Foley. The arrest affidavit is presented to the judge along with the complaint. He reviews the arrest, the application, okay. The affidavit. If he feels that there is sufficient probable cause to arrest an individual, the judge puts his signature on the warrant and you're able to go out and arrest under Rhode Island law.

THE COURT: What was the document that led to the arrest? This is what I'm trying to get at.

Q. He also puts his signature on this document, is that correct?

A. Yes, he does.

Q. And which of the documents that we've seen is the document that leads to the arrest of the person who is charged?

A. The arrest — the first two documents would be the arrest affidavit. And the arrest warrant is the face sheet of the — the affidavit in this particular case is the second document which authorizes the arrest. We cannot — at one point under Rhode Island law, we could arrest on that [96] particular document. They changed it to where we had to have an arrest affidavit and after the judge signs it, it becomes an arrest warrant.

Q. Is it fair to say you cannot —

THE COURT: I'm sorry. I really don't mean to interrupt, but this is very important for certain legal as-

pects of the case, that this be clear beyond any doubt. And what I would like to have clearly put on the record, and you and counsel can get together and stipulate exactly how this develops, step by step. You had a wire tap, you got information. Now if you — what do you do? What did you do from there? How do you get an arrest and how does the action, how is the action started. And I think either you both can get together because it certainly is a matter of law and there's nothing to debate. Just read it into the record so that this jury will know what documents exactly we look to to decide some of the issues that are involved in this case.

* * * *

[98] MR. FOLEY: Your Honor, the parties have agreed on and stipulated to the facts which generally describe the procedure in which a matter — a criminal matter of this sort is instituted. And if, your Honor please, I'll read that briefly into the record and then continue my questioning of Officer Malley on that point.

THE COURT: You're going to read the stipulation?

MR. FOLEY: Yes, your Honor.

THE COURT: All right.

MR. FOLEY: The parties stipulate that the procedure is as follows: The Superior Court of Rhode Island authorizes a particular wire tap on a phone or phones. Calls on, to or from that phone are then monitored and logged by the State Police. Calls which are considered to be incriminating by the State Police are reported to the superiors at the State Police. The officer at the State

Police in charge of the investigation reviews the calls considered to be incriminating and decides which calls he believes provide the basis for preparing and submitting an affidavit and arrest warrant, and District Court Complaint. The officer then prepares the affidavit and the arrest warrant and the District Court complaint. These are submitted to the Judge of the District Court, who reviews both of them and, either signs [99] or refuses to sign both of them.

THE COURT: In short, it's the judge that is the final determining factor as to whether or not an arrest warrant will issue?

MR. FOLEY: That's correct, your Honor.

THE COURT: Okay.

Q. Officer Malley, just so that we all understand the paper work that's done with regard to this type of matter. The document that's now on the screen is a District Court felony complaint, is that correct?

A. Yes, sir.

Q. That is one of the documents that you, as the officer in charge of this investigation, prepares when you feel the evidence obtained on the wire tap justifies criminal charges, is that right?

A. That's correct.

Q. And you prepare one other document in connection with that for submission to the District Court Judge, is that right? And that document is known as an affidavit and arrest warrant, is that right?

A. Yes, sir.

Q. And you prepare the affidavit. And in this case, you had a separate page because the affidavit would not fit in the block on the first page, is that right?

A. Yes, sir.

[100] Q. The two page affidavit and arrest warrant is then submitted to the District Court Judge along with the District Court complaint form and the judge then either decides to sign it which authorizes you to go ahead, or he refuses to sign it, in which case that's the end of that particular arrest warrant, unless you get more evidence, is that right?

A. Yes, sir.

Q. Now, Mr. Malley, with respect to the particular criminal investigation that we've been talking about here today. A call was monitored on the wire tap on December 20, 1981. Is that correct?

A. Did you say "a" call? There was —

Q. One or more calls.

A. Yes. Yes, sir.

Q. That fair to say?

A. Yes, sir.

Q. And records of those calls were made in writing, is that right?

A. Yes.

Q. All right. And they were made by the officer who overheard the calls, is that correct?

A. Yes.

• • • •

[101] Q. I'm going to show you, officer, a document that we've marked as plaintiffs' exhibit number 4 for identification, and ask if you recognize that document.

A. Yes, I do.

Q. What is that document?

A. This is a call log sheet that we use on wire taps.

Q. What is the purpose of that document?

A. This is to — for the officer that's monitoring the calls to put down that the number — the number of the call which we'll start with number 1, the time the call came in, whether it was an incoming call or an outgoing call. If it was an outgoing call, we would get the telephone number that the party called. Then you have another space if it is an incriminating call or a non-incriminating call, then you have the reading, which is the footage reading on the tape to tell you where you are on the tape. And then there's another space for the officer that monitored that call to put his initials in. Then there's a larger space where the officer writes down a synopsis of the call that came over the wire intercept.

Q. Now —

A. On the —

MR. FOLEY: I'm sorry. Go ahead.

A. On the bottom of the call log is the reel that it was recorded on, the side that it was recorded on, which we [102] only use side 1, the date and the day. And then the troopers will sign it. And that we're working that particular day.

Q. And you signed that particular sheet, is that correct?

A. Yes, I've signed, — I've signed it, yes.

* * * *

[103] Q. So Officer Miranda was the one actually listening to the wire tape at the time this call came in, is that correct?

A. That's correct.

[104] Q. Now, I'll ask you, officer, to read this message column for that particular call if you can.

A. Okay. "Male party calls. Paul states —" "Male party calls Paul, states this is Doctor Shotgun — general conversation re. a party they went to last night — spot monitored — caller says I can't believe I was token in front of Jimmy Briggs — caller states he passed it to Louisa —"

MR. FOLEY: Is that next word "caller"?

A. Okay, yeah. "Caller and Paul talk about another party going down tonight — Paul says Nancy was sitting in his lap rolling her thing — conversation then is general —caller says he will pick up Paul at six-thirty tonight to go to the other party."

Q. On the fourth line the phrase "spot monitored" here. What does that mean?

A. Would — what he would have done then is shut the machine down if they were getting into a general conversation.

Q. And because there's no more here, does that mean that he began listening again and recorded?

A. Yes. Spot monitoring you just shut it down and then you wait a few seconds and turn it back up.

Q. And what appears here then is what he heard after he turned it back on after spot monitoring?

A. That's correct.

* * * *

[106] Q. Now you testified, officer, that you did not listen to those tapes at the time the recording came in, is that correct?

A. No, not at that time, no.

Q. And subsequently the fact that that call came in was brought to your attention, is that correct?

A. Yes, it was.

Q. When was that?

A. That would have been either the 20th or the following day, I don't recall.

Q. All right. Would you describe the circumstances which that call was brought to your attention?

A. Yeah, when I came into the command post, Detective Ronald K. Youngsma told me about the call and of the conversation. The word "token" being used, the word "rolling her thing" being used, and that the party was over [107] at the Briggses house. You know, I can't remember exactly everything that he said to me. That was basically it. What I can remember.

* * * *

[108] A. As I stated, I was advised of this either on the 20th or the—which I believe was the 20th by Ronald K. Youngsma. He advised me of the call. And I'm the one who changed that to an incriminating call based on the facts of our conversation in regard to the common word of "token" being used which is the word used for smoking marijuana. And the word [109] "rolling her thing" which is a very common in drug terminology of rolling a marijuana cigarette. So this call was not a non-incriminating call, it was an incriminating call and further I have to report these calls to the presiding justice of the Superior Court. A report that has to go into him on Monday of each week which is under the wire tap law. So insofar as the date of 12/27, it could have been overlooked by me, that I put the "i" down or neglected to change that to an incriminating call, and I did that to show that I'm the one who changed it, so there'd be no question later on when I went in to Superior Court, if there was a trial in regard to the matter.

Q. All right, but the only thing I'm trying to establish, officer, is when this first call came in and was monitored by Officer Miranda he designed it as non-incriminating. Is that correct?

A. Yes, he did.

Q. All right. And subsequently, that day or the day after the call was brought to your attention and you determined, based on your experience as a police officer, that some of these words here referred to—some had something to do with drugs or narcotics and therefore you determined that this was in fact an incriminating call in your judgment. Is that fair to say?

A. In my judgment. And in Ronald K. Youngsma's judgment.

[110] Q. All right.

A. Who was my partner.

• • • •

Q. . . . . Now, following the shut-down of this particular wire tap, there came a time when you reviewed the calls that you or other officers had judged to be incriminating in order to decide which cases you were going to go forward with and attempt to present to the District Court for signature of arrest warrants. It that correct?

[111] A. That would be correct, yes.

Q. And when you did that, you had some document in front of you, is that right?

A. Yes, I did.

Q. All right. Did you have the document in front of you that we just viewed the log sheet?

A. Yes, I did.

Q. Did you have any other documents in front of you?

A. Yes, I did.

Q. All right. What documents would that be?

A. That would be the incriminating report made out on December 20, 1980 by Detective Miranda, or on or about the 20th.

Q. I'm going to show you a document that we've marked as defendants' B for identification, and ask if you recognize that document.

A. Yes, I do.

Q. Is that the incriminating call report that you've just referred to?

A. That's correct.

* * * *

[113] Q. Officer, were there any other documents you had before you pertaining to the contents of the telephone calls [114] when you prepared the arrest affidavits in this case?

A. I had this, and the incriminating report, and I had the call logs.

Q. All right. Were there any other documents that you had before you other than those?

A. No.

Q. All right. Those documents formed the basis for the affidavit that you prepared, is that correct?

A. That's correct.

Q. And you didn't listen to the tape recordings at the time you based your affidavits on the documents that you had before you, is that right?

A. I—the other officers listened to the tapes and submit these reports.

Q. Right. What I'm saying, you would refer to the reports that were submitted by the officers who heard the tapes. You would not listen to the tapes, is that right?

A. That's correct.

Q. Is that right?

A. That's correct.

Q. So with regard to Jim and Louisa Briggs, the information that you had before you was that one incriminating call report that we've just seen, plaintiffs' number 5, and the call log sheet, the two page plaintiffs' number 4, is that correct?

A. That's correct.

[115] Q. And based on those documents, you determined that there was sufficient evidence to warrant the presentation of this to Judge Cappelli, is that correct?

A. That's correct.

Q. Now, the standard by which you gauge your decision whether to present this information to a judge, is what's known as probable cause, is that right?

A. Yes, sir.

Q. Once—what's your understanding of the phrase probable cause?

A. Probable cause is the reasonable belief that a crime has been committed.

Q. So it's fair to say that it was your opinion after having read those calls that James and Louisa Briggs had committed a crime?

A. Yes.

Q. All right. And it is fair to say that it was your opinion that the crime that they had committed was the crime that you typed into this space on the District Court felony complaint "conspiracy to possess marijuana", is that right?

A. Conspiracy to possess marijuana with intent to deliver. With intent to deliver is not on the complaint.

The charge would be in this particular matter, which is an oversight on my part, I'll admit that as far as not putting "with intent to deliver." It's possession of marijuana with intent to [116] deliver. Conspiracy.

Q. Officer, I'd ask you to look at plaintiffs' exhibit number 1 for identification, the District Court felony complaint, pertaining to James Briggs. Do you have that before you?

A. I can see that one right there.

Q. Now that says nothing about possession with intent to deliver, is that correct?

* * * *

A. No, it does not.

Q. All right. But what you're telling us today is that the evidence that you had before you, that is, the call log sheet and what was described in that, and the incriminating call report, which simply reflected the call log sheet, gave you facts and circumstances upon which you concluded that James and Louisa Briggs were guilty of the crime of conspiracy to possess marijuana with intent to deliver. Is that correct?

A. I'm not a judge of whether a person is guilty or not guilty. I—what I did was the proper procedure that I've been instructed to do. I prepared affidavits on 22 people.

* * * *

[117] A. And brought the affidavits to a judge after calling the judge for an appointment—

* * * *

A. And went to the judge at the time he designated me to be there. He reviewed these arrest affidavits and after his review, he signed them. Now, whether a person is guilty or not guilty, I don't make that determination. That's not my job as a police officer. My job is to bring the facts that I have before me to a judge who's an impartial party to review them to see if there is enough probable cause to bring them before the court period.

* * * *

[118] Q. Officer, you testified earlier, correct me if I'm wrong, but that you understood probable cause to mean facts and circumstances which were sufficient to cause a belief that a crime had been committed. It that correct?

[119] A. I stated reasonable belief that a crime has been committed. I believe that's what I stated.

Q. All right. Reasonable belief that a crime has been committed. My question to you now is, officer, was the crime that you believed had been committed conspiracy to possess marijuana or conspiracy to possess marijuana with intent to deliver?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. It would be conspiracy to possess marijuana with intent to deliver.

Q. But that's not what you typed in on the complaint form, is that correct?

A. That's right.

MISS LaSALLE: Objection.

THE COURT: I'll let the answer stand.

Q. So, officer, if I understand you correctly, you're saying that the information you gathered from the call log sheet and the incriminating call report, gave you an, and I'll quote your words, "reasonable belief that a crime has been committed." And that that crime was conspiracy to possess marijuana with intent to deliver. Is that fair to say?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. Yes.

* * * *

[120] Q. Referring either to this call report or the log sheet, or the affidavit itself, I'd like you to tell us what it was about the information you had that led you to believe this was a conspiracy.

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. Okay. In a wire tap all charges are conspiracy. You—they're all conspiracies. All conspiracy charges in a wire tap.

Q. Why is that?

A. You don't have the physical evidence.

Q. Is that something that you've been taught in the course of your training as a State Trooper?

[121] A. A conspiracy is—you do not have to commit the act on a wire tap. If you are talking of selling,

we'll, for example, distributing dope, all you have to do is talk about that, that you're going to do it and that is conspiracy. That is a charge.

Q. My question to you, officer, was, is that what you were taught as a State Trooper, that everything on a wire tap is a conspiracy. That was my question. Do you understand that question?

A. That's correct.

Q. That's correct? That's what you were taught as a State Trooper?

A. That it's a conspiracy charge, yes.

* * * *

[122] Q. Now, officer, you said that everything on a wire tap is a conspiracy. Can you explain what you mean by that?

[123] A. Certainly. If the conversation is of such that of talking of committing a crime, you would charge on conspiracy to commit said crime. If I was talking that I'm going to commit a murder, that would be a conspiracy to commit murder. I would have to say who I'm going to, you know, kill. But it would be a conspiracy.

Q. Now, in this particular case the evidence that you heard from this caller, unidentified male was that he said, "I can't believe I was token in front of Jimmie Briggs." Is that right?

A. That's right.

Q. From that statement, you deduced that there was reasonable belief that a crime had been committed and

that crime was possession of marijuana with intent to deliver, is that right?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. Did I? Yes.

Q. Possession on the part of Jimmie Briggs?

A. Conspiracy to possess on the part of Mr. Briggs and Mrs. Briggs. It was their house, their party. Marijuana was being smoked at that party. It was passed to Mrs. Briggs according to the tape on both conversations. And there was another girl named Nancy who I don't know who is unidentified sitting on her lap, rolling her own. What was she rolling? She was [124] rolling a marijuana cigarette. That's a common term used in drug terminology. And if she was rolling a marijuana cigarette, Mr. Foley, she must have had a bag of marijuana to do it.

Q. Did you ever search the Briggs house?

A. No, I did not. I didn't go to the Briggses house.

Q. Did anybody ever search the Briggses house?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. No. I didn't search it.

Q. Did you ever find any marijuana in the possession of James or Louisa Briggs?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. There was none on their possession to my knowledge.

Q. But yet they were charged with conspiracy to possess, is that correct?

A. With intent to deliver.

Q. Simply because someone said that they were smoking a joint in front of Jimmie Briggs, is that right?

MISS LaSALLE: Objection.

THE COURT: Overruled.

A. Simply because they were — it was in their house.

* * * *

[125] Q. Officer, you said that the Briggs, as far as you know, had no marijuana on them, is that right?

A. To my knowledge. Nobody told me they had it on them when they were arrested.

Q. And the only evidence of what you deem conspiracy to possess, is that someone had marijuana in their house that night. Is that right?

A. More than one person.

Q. All right. More than one person.

A. That is correct.

Q. That's the evidence that you had, is that right?

A. That's correct.

Q. Right. What in your mind was there about that evidence that led you to believe that not only did they possess marijuana but that they intended to deliver it?

[126] MISS LaSALLE: Objection.

THE COURT: Overruled.

A. The conspiracy there with intent to deliver is the passing around of the marijuana, okay? It's being passed from one person to the other, which is a delivery. That's where it's conspiracy to possess with intent to deliver.

* * * *

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

C.A. No. 81-0577P

JAMES R. BRIGGS and LOUISA BRIGGS,

vs.

EDWARD MALLEY and the
STATE OF RHODE ISLAND,

JUDGMENT

This civil action having been tried before the Court and a jury, and defendants' motion for directed verdict having been granted as to all counts of the Complaint on February 2, 1984, judgment is hereby entered for defendants Edward Malley and the State of Rhode Island.

See attached transcript of 2/2/84.

ENTER:

/s/ Raymond J. Pettine
Senior Judge

BY ORDER:

/s/ Concetta K. Zinni
Deputy Clerk

2/28/84

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

[Title omitted in printing.]

MOTION FOR NEW TRIAL OR, IN THE ALTERNATIVE, FOR RELIEF FROM JUDGMENT

Plaintiffs move this Court, under Fed. R. Civ. P. 59, for a new trial, or, alternatively, under Fed. R. Civ. P. 60(b)(6), for relief from the judgment entered in this action on February 28, 1984. This motion is directed only to the claims against defendant Malley. This Court's ruling as to the claims against the State of Rhode Island is not challeneged.

A new trial should be granted in this action because the United States Court of Appeals for the First Circuit, in *B.C.R. Transport Co., Inc. v. Fontaine,* No. 83-1335, (1st Cir. February 8, 1984), decided six days after this Court granted defendants' motion for directed verdict, has clarified the law applicable in this action and has implicitly indicated that its earlier decisions of *Madison v. Manter,* 441 F.2d 537 (1st Cir. 1971) and *Stadium Films, Inc. v. Baillargeon,* 542 F.2d 577 (1st Cir. 1976), relied upon by this Court in its decision granting the motion for directed verdict, no longer apply to arrest-pursuant-to-warrant cases.

A copy of the Opinion in *B.C.R. Transport Co., Inc. v. Fontaine, supra,* is attached to plaintiffs' memorandum

of law, which sets forth in detail the reasons this motion should be granted.

James R. Briggs and
Louisa Briggs

By their attorneys,
Decof & Grimm
One Smith Hill
Providence, RI 02903
(401) 272-1110

/s/ John S. Foley

[Certification omitted in printing.]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

[Title omitted in printing.]

OBJECTION TO MOTION FOR NEW TRIAL
OR RELIEF FROM JUDGMENT

Now comes the defendant, Edward Malley, and objects to the plaintiffs' motion for a new trial, or in the alternative, relief from judgment. The reasons in support of this Objection are set forth in the Memorandum of Law that will be filed on March 26, 1984.

Edward Malley
By his attorney,
Dennis J. Roberts II
Attorney General

By: /s/ Faith A. LaSalle
Special Assistant
Attorney General
72 Pine Street
Providence, R.I. 02903
(401) 274-4400

[Certification omitted in printing.]

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

STATE OF
RHODE ISLAND
AND
PROVIDENCE
PLANTATIONS

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PLAINTIFFS' EXHIBIT 1

AFFIDAVIT AND ARREST WARRANT

AFFIDAVIT

AFFIANT	AGENT OF
Det. Edward P. Malley	Rhode Island State Police
DEFENDANT	**ADDRESS** NO STREET CITY/TOWN STATE
James R. Briggs, alias John Doe	Carper Road, East Pond Heights, Narragansett, R.I.

AFFIDAVIT

Your affiant upon oath states that he has reason to believe and does believe that grounds for issuance of an arrest warrant exists and states the following facts on which such belief is founded:

Persuant to a court ordered wire intercept signed by the Honorable Anthony A. Giannini, Presiding Justice of the Superior Court of the State of Rhode Island and Providence Plantations, on November 25th, 1980 and a extention order signed on December 23rd, 1980 giving permission for members of the Rhode Island State Police to intercept oral communications over telephone number 401-789-3108.

See attached affidavit, attached there to and made part of:

IF SPACE IS NOT SUFFICIENT, CHECK (X) HERE AND
[X] ATTACH ADDITIONAL INFORMATION

AFFIANT
x Det. Edward P. Malley

SUBSCRIBED AND SWORN TO BEFORE ME AT (CITY/TOWN)	DATE	JUDGE OR DISTRICT COURT JUSTICE OF SUPERIOR COURT OR ANY OTHER AUTHORIZED OFFICER
West Kingston	12-15-80	x

ARREST WARRENT

STATE EX REL.	COUNTY	DATE OF BIRTH	DIVISION	WARRANT DATE
xxxxx Member of Rhode Island State Police	Washington	10-26-23	4th RHODE ISLAND DISTRICT COURT	12-15-80

VS. DEFENDANT	ADDRESS NO STREET CITY/TOWN STATE
James R. Briggs, alias John Doe	Carper Road East Pond Heights Narragansett, R.I.

TO ANY AUTHORIZED OFFICER: Affidavit (and complaint) having been made to me under oath, and as I am satisfied that there is probable cause for the belief therein set forth that grounds for issuing an arrest warrant exists, you are hereby commanded to arrest the defendant forthwith and to bring him before a judge of this court without unnecessary delay.

BAIL	WITH/WITHOUT	DATE SIGNED	JUDGE OR DISTRICT COURT JUSTICE SUPERIOR COURT OR ANY AUTHORIZED OFFICER
$	[ ] with [ ] without	12-15	x

RETURN OF SERVICE

I have apprehended the within named defendant and have presented him/her before the court as herein commanded.

SERVICE	MILEAGE	DATE OF RETURN	AUTHORIZED OFFICER
$	$	3-17-81	x

sg 3/1/84
CP 84-0517

POLICE COPY

Page 2 of the arrest affidavit on James R. Briggs, alias John Doe, DOB:
of Carper Road, East Ford Height , Narragansett, Rhode Island.

On December 20, 1980, at 5:30 p.m. an incoming call was received to Paul Driscoll recorded on Reel 7, Side 1, Footage 30-48. This unidentified male calls Paul Driscoll and states, "This is Doctor Shotgun." General conversation reference to a party they went to last night. Caller states, "I can't believe I was token in front of Jimmy Briggs." Caller states that he passed it to Luisa. Caller and Paul talk about another party going on tonight. Paul says that Nancy was sitting in his lap rolling her thing.

On the same date at 5:56 p.m., Reel 7, Footage 48-59. Male subject Scott calls Paul Driscoll. General conversation about a party at Jaime's parents' home. Also, that they went there last night. They are referring to Jaime's parents' home, that is James and Luisa Briggs. Further, in regard to the conversation at 5:30 p.m. this unidentified male who called himself Doctor Shotgun stated that he was token in front of Jimmy Briggs. In your affiant's experience, he was smoking a marijuana cigarette in front of James Briggs. He then states that he passed it to Luisa. Luisa would be Luisa Briggs. He passed her a marijuana cigarette. Where Paul states that Nancy was sitting on his lap rolling her thing, she was rolling a marijuana cigarette.

Therefore, your affiant requests that an arrest warrant be issued for James R. Briggs, alias John Doe, DOB:

Affiant

Judge

2-25-81

RHODE ISLAND
AND
PROVIDENCE
PLANTATIONS

800968

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DISTRICT COURT
FELONY COMPLAINT

COMPLAINT NO.

D 001 F (11/77)

▼ COMPLAINING AGENCY COMPLETE AREA IN HEAVY OUTLINE ▼

STATE EX REL	COUNTY	DIVISION	OFFENSE DATE
~~xxxxxx~~ Member of the R.I. State Police	Washington/S. Kingstown	4th DISTRICT COURT	12-19-80

VS./DEFENDANT	DEFENDANT'S ADDRESS	PHONE #
James R. Briggs, alias John Doe	Narragansett Carper Road, East Pond Heights, Narragansett, R.I.	

DATE OF BIRTH	SOCIAL SECURITY NO.	PROBATION NO.	OTHER I.D. (M.V.LIC. NO.)
10-26-23			

COMPLAINANT	COMPLAINANT'S ADDRESS
Rhode Island State Police	

TO ANY JUDGE OR AUTHORIZED JUSTICE OF THE PEACE FOR SAID DIVISION: The here named complainant on oath, in the name and behalf of the State, says that the here named defendant (alias John/Jane Doe) on the date stated with force and arms acted in violation of law and wherefore the complainant prays that a summons or arrest warrant may issue to apprehend the defendant and that he be held to answer this complaint and be further dealt with according to law.

COMPLAINT

James R. Briggs, alias John Doe and Luisa Briggs, alias Jane Doe, and Paul S. Driscoll, alias Paul Doe did unlawfully conspire to violate the uniform controlled substance act of the State of Rhode ~~x~~ Island by having in their possession a controlled substance Schedule 1 to wit cannabis marijuana in violation of Section 21-28-4.08 of the General Laws as amended.

CONNECTED MISDEMEANOR CHARGE(S), IF ANY

CO-DEFENDANT(S), IF ANY:

Luisa B. Briggs, Paul S. Driscoll

STATUTE(S) VIOLATED	LOCATION OF OFFENSE
	South Kingstown ~~Narragansett~~

AUTHORIZED OFFICER	DATE SIGNED	TITLE	AGENCY
X		Detective	State Police

SWORN TO BY AFFIANT WHO RECOGNIZED ☐ WITH ☐ WITHOUT SURETY	DATE SWORN	JUDGE/JUSTICE OF THE PEACE AUTHORIZED TO ISSUE WARRANTS
		X

▼ INITIAL APPEARANCE ▼

INITIAL APPEARANCE DATE	ARRAIGNMENT DATE	BAIL	JUDGE/JUSTICE OF THE PEACE
		$	X

▼ ARRAIGNMENT ▼

ARRAIGNMENT DATE	ADVISED OF RIGHTS ☐ YES ☐ NO	BAIL	CONTROL DATE	
		$		
ATTORNEY NAME ☐ PRIVATE ☐ ASSIGNED			JUDGE	
			X	

▼ BOUND OVER ▼

BOUND OVER ☐ YES ☐ NO	DATE	BAIL	WITNESS FEES	COSTS	JUDGE
		$	$	$	X

DISPOSITION

DISPOSITION DATE	INDICTMENT/INFORMATION NO.	FILED/REJECTED ON
☐ CRIMINAL HISTORY BACKGROUND INFO.	CASE DISPOSED—NO COSTS	JUDGE X

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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PLAINTIFFS' EXHIBIT 2

AFFIDAVIT AND ARREST WARRANT

AFFIDAVIT

AFFIANT	AGENT OF
Det. Edward P. Malley	Rhode Island State Police

DEFENDANT	ADDRESS NO STREET CITY TOWN STATE
Luisa B. Briggs, alias Jane Doe	Carper Road East Pond Heights, Narragansett, R.I.

AFFIDAVIT

Your affiant upon oath states that he has reason to believe and does believe that grounds for issuance of an arrest warrant exists and states the following facts on which such belief is founded:

Persuant to a court ordered wire intercept signed by the Honorable Anthony A. Giannini, Presiding Justice of the Superior Court of the State of Rhode Island and Providence Plantations, on November 25th 1980 and a extention order signed on December 23rd, 1980 giving permission for members of the Rhode Island State Police to intercept oral communications over telephone number 401-789-3108.

See attached affidavit, attached there to and made part of:

IF SPACE IS NOT SUFFICIENT, CHECK (X) HERE AND [X] ATTACH ADDITIONAL INFORMATION

AFFIANT

x Det. Edward P. Malley

SUBSCRIBED AND SWORN TO BEFORE ME AT CITY TOWN	DATE	JUDGE OF DISTRICT COURT, JUSTICE OF SUPERIOR COURT OR ANY OTHER AUTHORIZED OFFICER
W. Hampton	7-15-81	x

ARREST WARRENT

STATE EX REL	COUNTY	DATE OF BIRTH	DIVISION	WARRANT DATE
~~xxxxxx~~ Member of the Rhode Island State Police	Washington	5-12-28	4th RHODE ISLAND DISTRICT COURT	7-15-81

NAME OF DEFENDANT	ADDRESS NO STREET CITY TOWN STATE
Luisa B. Briggs, alias Jane Doe	Carper Road East Pond Heights, Narragansett, RI

TO ANY AUTHORIZED OFFICER: Affidavit (and complaint) having been made to me under oath, and as I am satisfied that there is probable cause for the belief therein set forth that grounds for issuing an arrest warrant exists, you are hereby commanded to arrest the defendant forthwith and to bring him before a judge of this court without unnecessary delay.

BAIL	SURETY	DATE SIGNED	AUTHORIZED OFFICER	JUDGE OF DISTRICT COURT OR ANY
$	[ ] with [ ] without	7-15-81	x	

RETURN OF SERVICE

I have apprehended the within named defendant and have presented him/her before the court as herein commanded.

SERVICE	MILEAGE	DATE OF RETURN	AUTHORIZED OFFICER
$	$	3-11-11	x

CP 81-0577

2 Sc 71.64

Page 2 of the arrest affidavit on Luisa B. Briggs, alias Jane Doe, DOB: 5/12/28 of Carper Road, East Pond Heights, Narragansett, Rhode Island.

On December 20, 1980, at 5:30 p.m. an incoming call was received to Paul Driscoll recorded on Reel 7, Side 1, Footage 30-48. This unidentified male calls Paul Driscoll and states, "This is Doctor Shotgun." General conversation reference to a party they went to last night. Caller states, "I can't believe I was token in front of Jimmy Briggs." Caller states that he passed it to Luisa. Caller and Paul talk about another party going on tonight. Paul says that Nancy was sitting in his lap rolling her thing.

On the same date at 5:56 p.m., Reel 7, Footage 48-59. Male subject Scott calls Paul Driscoll. General conversation about a party at Jaime's parents' home. Also, that they went there last night. They are referring to Jaime's parents' home, that is James and Luisa Briggs. Further, in regard to the conversation at 5:30 p.m. this unidentified male who called himself Doctor Shotgun stated that he was token in front of Jimmy Briggs. In your affiant's experience, he was smoking a marijuana cigarette in front of James Briggs. He then states that he passed it to Luisa. Luisa would be Luisa Briggs. He passed her a marijuana cigarette. Where Paul states that Nancy was sitting on his lap rolling her thing, she was rolling a marijuana cigarette.

Therefore, your affiant requests that an arrest warrant be issued for Luisa B. Briggs, alias Jane Doe, DOB: 5/12/28.

2-25-81

RHODE ISLAND AND PROVIDENCE PLANTATIONS

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DISTRICT COURT
FELONY COMPLAINT

COMPLAINT NO. 81-00973

▼ COMPLAINING AGENCY COMPLETE AREA IN HEAVY OUTLINE ▼

STATE, EX REL	COUNTY	DIVISION	OFFENSE DATE
Member of the R.I. State Police	Washington/S. Kingstown	4th DISTRICT COURT	12-19-80

VS. DEFENDANT	DEFENDANT'S ADDRESS	PHONE #
Luisa B. Briggs, alias Jane Doe	Narragansett Carper Road, East Pond Heights Narragansett, R.I.	

DATE OF BIRTH	SOCIAL SECURITY NO.	DRIVER'S LICENSE NO	OTHER I.D (M.V LIC. NO.)
5-12-28			

COMPLAINANT	COMPLAINANT'S ADDRESS
Rhode Island State Police	

TO ANY JUDGE OR AUTHORIZED JUSTICE OF THE PEACE FOR SAID DIVISION: The here named complainant on oath, in the name and behalf of the State, says that the here named defendant (alias John/Jane Doe) on the date stated with force and arms acted in violation of law and wherefore the complainant prays that a summons or arrest warrant may issue to apprehend the defendant and that he be held to answer this complaint and be further dealt with according to law.

COMPLAINT

Luisa B. Briggs, alias Jane Doe and James Briggs, alias John Doe, and Paul S. Driscoll, alias Paul Doe, did unlawfully conspire to violate the uniform controlled substance act of the State of Rhode Island by having in their possession a controlled substance, Schedule 1 to wit cannabis marijuana in violation of Section 21-28-4.08 of the General Laws as amended.

CONNECTED MISDEMEANOR CHARGE(S), IF ANY:

CO-DEFENDANT(S), IF ANY:

James Briggs, Paul S. Driscoll

STATUTE(S) VIOLATED	LOCATION OF OFFENSE
	South Kingstown Narragansett

AUTHORIZED OFFICER	DATE SIGNED	TITLE	AGENCY
X		Detective	State Police

SWORN TO BY AFFIANT WHO RECOGNIZED ☐ WITH ☐ WITHOUT SURETY	DATE SWORN	JUDGE/JUSTICE OF THE PEACE AUTHORIZED TO ISSUE WARRANTS
		X

▼ INITIAL APPEARANCE ▼

INITIAL APPEARANCE DATE	ARRAIGNMENT DATE	BAIL	JUDGE/JUSTICE OF THE PEACE
		$	X

▼ ARRAIGNMENT ▼

ARRAIGNMENT DATE	ADVISED OF RIGHTS ☐ YES ☐ NO	BAIL	CONTROL DATE	
		$		
ATTORNEY ☐ PRIVATE ☐ ASSIGNED	NAME		JUDGE	
			X	

▼ BOUND OVER ▼

BOUND OVER ☐ YES ☐ NO	DATE	BAIL	WITNESS FEES	COSTS	JUDGE
		$	$	$	X

DISPOSITION

DISPOSITION DATE	INDICTMENT/INFORMATION NO.	FILED/REJECTED ON
☐ CRIMINAL HISTORY BACKGROUND INFO.	CASE DISPOSED—NO COSTS	JUDGE X

POLICE COPY

for Exhibit 1

PLAINTIFFS' EXHIBIT 4 RHODE ISLAND STATE POLICE

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NARCOTICS UNIT

Driscoll 787-3108

NO.	TIME	IN	OUT	TELEPHONE NUMBER	IN	READING	INT	MESSAGE
1.	9:35AM	✓			N	17-21	RXY	Tony calls Paul, says he's getting married after the holidays. Tony asks Paul how much does he owe on the policy. Paul says I'll have to check it. Paul asks Tony if he'll be home next week, how about Monday. Paul says I'll probably see you after the
2.	9:44a	✓			N	21-25	RXY	Jaime's mother calls for Jaime. mother says she called a wants Jaime to take the car home, making check sure.
3	11:30AM		✓	[illegible]	N	25-30	RXY	Jaime calls Wayside for John. Asked me to get message to have John call his parents home
4.	12:40PM	✓			—	30-3C	WJZ	No answer
5	5:30PM	✓			IV	30-48	Spon	male party calls Paul states this is Jay Shotgun - General conversation re: a party they went to last night - spot monitored - caller says I can't believe I was taken in front of Jimmy Greggs - caller states he "pimped" it to Jessica - talk about fans. Talk about another party going down tonight - Paul says Jimmy was sitting in his lap rolling her thing - conversation is general - caller says he will pick up Paul at 6:30 tonight to go to the other party.
6	5:56PM	✓			4	48-59	WJZ	Scott the Paul. Gen. Con. Spectron P. Corey & party at Jaimes parents home went to one last night also. Everything u can imagine was going on. Cole then trying to make Jaimes (Bungalow) Bear & Carolyn

(A) 81-0577

5C 4 2/1/84

7 SIDE 1 DATE 2/20/84 Saturday TROOPER Edward Driscoll

BK Sawyer

WJ Lynch

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RHODE ISLAND STATE POLICE

NARCOTICS UNIT

D. Mizell 789-3103

NO	TIME	IN	OUT	TELEPHONE NUMBER	IN	READING	INT	MESSAGE
6 CONTD		✓						GOING TO PARTY. LOT OF RELATIVES. SCOTT + PAUL TALK OF GOING TO NASSAU POSSIBLY WITH JAIME + MIMI. PAUL GOOD IDEA

7 SIDE 1 DATE 12-20-80 DAY SAT. TROOPER W. J. Zgurski